

party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection, the Board will determine the extent to which the interrogatories will be permitted. The scope and use of interrogatories will be controlled by § 955.15.

(b) *Admission of facts.* After an appeal has been filed with the Board, a party may serve upon the other party a request for the admission of specified facts. Within 30 days after service, the party served shall answer each requested fact or file objections thereto. The factual propositions set out in the request may be ordered by the Board as deemed admitted upon the failure of a party to respond timely and fully to the request for admissions.

(c) *Production and inspection of documents.* After an appeal has been filed with the Board, a party may serve on the other party written requests for the production, inspection, and copying of any documents, electronically stored information, or things, to be answered within 30 days. Upon timely objection, the Board will determine the extent to which the requests must be satisfied, and if the parties cannot themselves agree thereon, the Board shall specify just terms and conditions of compliance.

§ 955.17 Depositions.

(a) *When depositions permitted.* After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the Board may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(b) *Orders on depositions.* The time, place, and manner of taking depositions shall be as mutually agreed by the parties or, failing such agreement, governed by order of the Board.

(c) *Use as evidence.* No testimony taken by deposition shall be considered

as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at or before such hearing. It will not ordinarily be received in evidence if the deponent is available to testify at the hearing, but the Board may admit testimony taken by deposition in its discretion. A deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions as evidence in supplementation of that record.

(d) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

§ 955.18 Hearings—where and when held.

If there is to be a hearing, it will be held at a time and place prescribed by the Board after consultation with the parties. At the discretion of the Board, hearings may be held in the Board's hearing room in Arlington, Virginia or may be held at another location with due consideration to the just, informal, expeditious and inexpensive resolution of each case.

[74 FR 20592, May 5, 2009, as amended at 76 FR 37660, June 28, 2011]

§ 955.19 Notice of hearings.

The Board shall issue an order reasonably in advance of the hearing identifying the time and place thereof.

§ 955.20 Unexcused absence of a party.

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in § 955.12.

§ 955.21 Nature of hearings.

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. The Board may exclude evidence to avoid unfair prejudice, confusion of the issues, undue delay, waste of time, or presentation of irrelevant, immaterial or cumulative evidence. Although the Board will consider the Federal Rules of Evidence as described in § 955.14(d), letters or copies

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thereof, affidavits, or other evidence not ordinarily admissible under the Federal Rules, may be admitted in the discretion of the Board. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be accepted as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties. A party requiring the use of a foreign language interpreter allowing testimony to be taken in English for itself or witnesses it proffers is responsible for making all necessary arrangements and paying all costs and expenses associated with the use of an interpreter.

§ 955.22 Examination of witnesses.

Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board shall otherwise order. If the testimony of a witness is not given under oath or affirmation, the Board may warn the witness that his or her statements may be subject to the provisions of 18 U.S.C. 287 and 1001, and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof. Upon the request of either party, or if the Board deems it advisable, the Board may exclude witnesses from the hearing room. The Board will not exclude a party who is an individual, the properly designated representative of a party which is an entity, a person whose presence is essential to the presentation of a party's case, or a person required by statute to be present.

§ 955.23 Copies of papers, withdrawal of exhibits.

(a) When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, dur-

ing the hearing or at the conclusion thereof.

(b) After a decision has become final, upon request and after notice to the other party, the Board in its discretion may permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

§ 955.24 Posthearing briefs.

Posthearing briefs may be submitted upon such terms as may be ordered by the Board at the conclusion of the hearing. Ordinarily, they will be simultaneous briefs, submitted to the Board on a date established by the Board, following receipt of transcripts.

§ 955.25 Transcript of proceedings.

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts of the proceedings will be provided to the parties by the Board.

§ 955.26 Representation of the parties.

(a) The term *appellant* means a party that has filed an appeal for resolution by the Board. An individual appellant may appear before the Board in his or her own behalf, a corporation may appear before the Board by an officer thereof, a partnership or joint venture may appear before the Board by a member thereof, or any of these may appear before the Board by an attorney at law duly licensed in any state, commonwealth, territory of the United States, or in the District of Columbia. An attorney representing an appellant shall file a written notice of appearance with the Board, including his or her address, telephone number, fax number, and jurisdiction in which the attorney is licensed to practice law.

(b) The term *respondent* means the U.S. Postal Service. Postal Service counsel, who shall be an attorney at law licensed to practice in a state, commonwealth, or territory of the United States, or in the District of Columbia, designated by the General Counsel, will represent the interest of the Postal Service before the Board.